IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 1089/2003

RAMAVTAR & ORS. Vs. BOARD OF REVENUE, AJMER & ORS.

DATE: 04.12.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Bhanu Pareek for the petitioners.
Mr. B.S. Chhaba, Dy. GA for the State.
Mr. Sandeep Mathur for the respondents.

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This writ petition is directed against the order impugned passed by the Tehsildar, Behrod dated 28.03.97 as well as the orders dated 14.07.97, 05.09.97 and 22.07.2002 passed by the Additional Collector, Alwar, Revenue Appellate Authority and the Board of Revenue, Ajmer respectively.

All the Courts below have considered that the petitioners encroached over the land in dispute bearing Khasra No. 320 measuring 15 air and they have been declared trespasser of the disputed land and given concurrent fact findings against the petitioners.

It is also disputed by the State that house and Bada of the petitioners is constructed in the land bearing Khasra No. 320 in village Nasarpur. Neither house and Bada of other persons are there in the

aforesaid Khasra nor any allotment or regularisation order has been issued with regard to the land in dispute. It is not disputed that the case of regularisation of possession of the petitioners was recommended to be considered sympathetically but was found untenable and against the rules and, therefore, the request of the petitioners was declined and the Patwari Halka has also given its report and on the basis of the report, Tehsildar has passed the order dated 28.03.97 and appeal against this order dated 28.03.97 was also rejected by the Additional Collector, Alwar vide its order dated 14.07.97 and the order passed by the Additional Collector has been upheld by the Revenue Appellate Authority as well as the Board of Revenue, Ajmer vide judgment dated 05.09.97 and 22.07.2002 respectively holding that the notification upon which the petitioners are placing reliance for regularisation in their favour, is not applicable to the instant case.

The petitioners referred that the State has issued a notification and as per the notification, the petitioners are also entitled to ask for regularisation of the land which is in their possession but the same has been denied by the respondents as nature of land is Charagah.

It is also submitted that the land in dispute which was recorded as Charagah land was converted into agricultural land and was allotted to the Govt. Girls School and the Sarpanch has also given no objection and the school is also constructed over the land in dispute. In such circumstances, the petitioners have got no case of regularisation in their favour as the land in dispute has been declared as land of public utility and was allotted to the Govt. Girls School and lease deed has also been issued and mutation in favour of the school is also opened and a sum of Rs. 4,13,000/- has been sanctioned by the State Governmente for construction of the school building and the same has been constructed.

It is also stated that the present writ petition is not maintainable as the petitioners have also filed a suit for declaration in the Court of Civil Judge (Jr. Division), Behrod with regard to the disputed land.

Having considered the rival submissions of the respective parties and upon careful perusal of the judgments impugned in this writ petition, it is no doubt that all the Courts below have given concurrent findings against the petitioners. I have also considered this fact that the land in disputed has been

allotted to the Govt. Girls School and mutation was opened in favour of the school and fund has also been sanctioned by the State Government for construction of the school and the construction has already been made. Further the petitioners have already filed a suit for declaration in the Court of Civil Judge (Jr. Division), Behrod.

Therefore, in the facts and circumstances of the case, this Court find no illegality or error apparent on the face of the record and the orders impugned passed by all the Courts below require no interference whatsoever by this Court.

Consequently, the writ petition fails being devoid of merit and the same is hereby dismissed with no order as to costs.

The ex parte interim order dated 26.02.2003 granted by this Court stands rejected. The stay application also stands dismissed.

(K.S. RATHORE),J.

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